

1 The opinion in support of the decision being entered today was *not* written
2 for publication in and is *not* binding precedent of the Board.

3
4 UNITED STATES PATENT AND TRADEMARK OFFICE

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7 BEFORE THE BOARD OF PATENT APPEALS
8 AND INTERFERENCES
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11 *Ex parte* MICHAEL RAY CRABTREE, SUHWE LEE, and NANCY QUEK
12

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14 Appeal 2006-2157
15 Application 09/752,204
16 Technology Center 1700
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19 Decided: March 28, 2007
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22 Before TERRY J. OWENS, LINDA E. HORNER, and ANTON W. FETTING,
23 *Administrative Patent Judges.*

24 FETTING, *Administrative Patent Judge.*

25 DECISION ON APPEAL
26

27
28 STATEMENT OF CASE

29 This appeal involves claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73,
30 75-78, and 80-101, the only claims pending in this application. We have
31 jurisdiction over the appeal pursuant to 35 U.S.C. §§ 6 and 134.

32
33 We REVERSE.

1 The Appellants invented a manner of exchanging commodities by creating
2 private trading relationships within a public trading hub (Specification 1). An
3 understanding of the invention can be derived from a reading of exemplary
4 claim 1, which is reproduced below.

5 1. A computer-implemented method of facilitating the exchange of
6 commodities, said method comprising:
7 utilizing by a buyer entity and a seller entity an automated public
8 business trading hub in the public exchange of one or more
9 commodities, wherein the buyer entity, the seller entity and the public
10 business trading hub are each separate and independently owned; and
11 performing via an automated trusted agent one or more private
12 business functions associated with the public exchange of the one or
13 more commodities between the buyer entity and the seller entity using
14 the public business trading hub, wherein the one or more private
15 business functions include managing in private at least one of:
16 (i) one or more pricing terms associated with the public exchange;
17 (ii) one or more contract terms associated with the public exchange;
18 (iii) one or more business terms associated with supply and demand of
19 commodities associated with the public exchange; and
20 (iv) one or more product schedules associated with the public
21 exchange, and
22 wherein the automated trusted agent is electronically coupled to the
23 public business trading hub and is separate from the buyer entity, the
24 seller entity and the public business trading hub, and wherein details
25 of the one or more private business functions performed by the
26 automated trusted agent remain unknown to other entities accessing
27 the public business trading hub.

1 This appeal arises from the Examiner's Final Rejection, mailed January 11,
2 2005. The Appellants filed an Appeal Brief in support of the appeal on July 6,
3 2005, and the Examiner mailed an Examiner's Answer to the Appeal Brief on
4 December 12, 2005.

5 PRIOR ART

6 The prior art references of record relied upon by the Examiner in rejecting the
7 appealed claims are:

8 Barnes	US 5,970,475	Oct. 19, 1999
9 Meltzer	US 6,125,391	Sep. 26, 2000
10 Fox	US 6,560,581 B1	May 6, 2003 (Jun. 8, 1998)
11		
12 Johnson	US 6,598,029 B1	Jul. 22, 2003 (Apr. 4, 2000)
13		
14 Haddad	US 2003/0208433 A1	Nov. 6, 2003 (Dec. 12, 2000)
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16 We also make the following art of record

17 Conklin	US 6,141,653	Oct. 31, 2000
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19 REJECTION

20 Claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78, and 80-101
21 stand rejected under 35 U.S.C. § 103(a) as obvious over Barnes, Meltzer, Fox, and
22 either of Haddad or Johnson.

23 The Examiner applies Barnes for its description of trading system
24 implementation details and of the use of trusted electronic data interchange (EDI)

1 agents, Meltzer for its description of a trusted agent to manage specific contract
2 terms between trading partners, Fox for describing a trusted credential authority for
3 administering contracts, and Haddad and Johnson each for examples of electronic
4 commodity exchange.

5 ISSUES

6 The issues pertinent to this appeal are

- 7 • Whether the art applied describes or would have fairly suggested, to one of
8 ordinary skill in the art, utilizing, by a buyer entity and a seller entity, an
9 automated public business trading hub in the public exchange of one or more
10 commodities, wherein the buyer entity, the seller entity, and the public
11 business trading hub are each separate and independently owned.
- 12 • Whether the art applied describes or would have fairly suggested, to one of
13 ordinary skill in the art, performing via an automated trusted agent one or
14 more private business functions associated with the public exchange of the
15 one or more commodities between the buyer entity and the seller entity
16 using the public business trading hub, wherein the one or more private
17 business functions include managing in private at least one of:
 - 18 ○ (i) one or more pricing terms associated with the public exchange;
 - 19 ○ (ii) one or more contract terms associated with the public exchange;
 - 20 ○ (iii) one or more business terms associated with supply and demand of
21 commodities associated with the public exchange; and
 - 22 ○ (iv) one or more product schedules associated with the public
23 exchange,

- Whether the art applied describes or would have fairly suggested, to one of ordinary skill in the art, that the automated trusted agent is electronically coupled to the public business trading hub and is separate from the buyer entity, the seller entity and the public business trading hub, and wherein details of the one or more private business functions performed by the automated trusted agent remain unknown to other entities accessing the public business trading hub.

In particular, the Appellants contend that none of the applied art, including Haddad and Johnson, teach the existence of an automated trusted agent (performing one or more of the recited business functions of the independent claims) to add private relationships (and hierarchical authority) to a public business trading hub, thereby allowing, for example, selected mission critical aspects of a fulfillment process (e.g., confidential preferential pricing terms) to be shielded from certain entities while allowing non-critical information or terms in the exchange of commodities to freely flow between entities via the automated public business trading hub. (Br. 15-16).

FACTS PERTINENT TO THE ISSUES

The following facts pertinent to the above issues are supported by a preponderance of the evidence:

Barnes teaches a method for facilitating the exchange of goods/services (Abstract)(Fig 1)(Fig 2) utilizing the Internet(Fig 1)(Fig 6B) and incorporating suppliers and buyers(Fig 6B/106)(Fig 6A/84/78) incorporating a bank and a clearing mechanism(Fig 6A/50/18) as well as an invoicing mechanisms

1 (Fig 10)(Fig 11)(Fig 22)(Fig 23)(Fig 24) and approved suppliers(Fig 16) for a
2 commodity(Fig 5/12). (Answer 3-4).

3 Barnes further teaches payment, clearance and settlement over the Internet
4 between a buyer and seller. Barnes also teaches a procurement system(Fig 3/12)
5 and a certificate authority(Fig 3/54), a supplier system(Fig 3/16), a clearing
6 gateway(Fig 3/50), as well as client registration(Fig 5/58) and shipment of
7 goods(Fig 5/64), and a purchase order(Fig 5/66). Barnes further teaches an event
8 handler (Fig 6A/80), and a certificate authority application (Fig 7/110), as well as
9 making a purchase (Fig 11) and maintaining suppliers(Fig 14), and a supplier
10 payments maintenance system(Fig 22). (Answer 4).

11 The certificate of authority in Barnes administers a security feature which
12 authenticates buyers and sellers and suppliers. (Answer 4).

13 The Examiner asserts that this function is within the broad recitation of
14 subparagraph iii and iv as recited by applicant and that the terms "strategic
15 relationship" and "business process" are encompassed within an authentication
16 process per se where the certificate of authority in Barnes is considered a "trusted
17 agent". (Answer 4).

18 Meltzer teaches a transaction network consisting of multiple trading
19 partners(Fig 1) operating on the Internet (Fig 1/19) including a bid (Fig 2/220/207)
20 and a trading apparatus(Fig 3) incorporating commercial functions(Fig 3/305)as
21 well as an attribute characterization and bid builder(Fig 7/700) and a database
22 (Fig 7/706) and auction house bids(Fig 8/804) and warehouse bids for
23 commodities(Fig 8/803) and currencies(Fig 818) and a GUI(Fig 9/900)to the user
24 for the bidding process and publish bidding on the network (Fig 9/907) utilizing
25 product identifiers from OEMs(Fig 8/820) and bidding by RFQs (Fig 8/813)

1 including market maker mechanisms(Fig 11/1105) and an architecture consisting
2 of market makers, marketplaces, businesses, services, transactions, and products.
3 (Answer 4-5).

4 Fox describes a buy/sell model (Abstract) and a credential-binding server
5 (Fig 22/364)(Fig 1/26/28)(Fig 2/26/28)(Fig 6)(Fig 7)(Fig 10/180/179)
6 (Fig 17/310)(Fig 18/310) at a trusted credential authority (col. 2, ll. 25-34).
7 (Answer 5).

8 Fox also describes performing a selected business function of managing at least
9 one contract term associated with a transaction by the credential binding server
10 (col. 12, ll. 25-43) as well as utilizing a network (col. 2, ll. 10-25). Fox further
11 teaches generating/verifying a registration in the registration process
12 (Fig 3/50/52/54/56/58/60) and a transaction process (Fig 6) consisting of
13 verification (Fig 6/104) and encryption (Fig 6/110) and verifying the authenticity
14 of the originator(Fig 7/122) through signature verification(Fig 7/120). Fox further
15 teaches a commerce application (Fig 10/162) and encrypting and signing (Fig 12)
16 and a merchant, acquirer, purchaser, and a binder (Fig 17/304/306/302/310)
17 connected over a network (Fig 18/334/338) and purchaser application(Fig 19) and
18 merchant application (Fig 20) and acquirer application (Fig 21) and a binder
19 application (Fig 22). (Answer 5).

20 Haddad and Johnson both disclose a public business trading hub for the public
21 exchange of one or more commodities, wherein the buyer entity, seller entity, and
22 public business trading hub are each separate and independently owned [(para
23 0004 to Haddad) (col. 4, ll. 44-67; col. 5, ll. 1-8 to Johnson et al)]. (Answer 6).

ANALYSIS

Claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78, and 80-101 rejected under 35 U.S.C. § 103(a) as obvious over Barnes, Meltzer, Fox, and either of Haddad or Johnson.

From the above findings of facts supported by a preponderance of substantial evidence, we must conclude:

- The art applied describes utilizing, by a buyer entity and a seller entity, an automated public business trading hub in the public exchange of one or more commodities, wherein the buyer entity, the seller entity and the public business trading hub are each separate and independently owned.
- The art applied describes performing via an automated trusted agent one or more private business functions associated with the public exchange of the one or more commodities between the buyer entity and the seller entity using the public business trading hub, wherein the one or more private business functions include managing in private at least one of:
 - (i) one or more pricing terms associated with the public exchange;
 - (ii) one or more contract terms associated with the public exchange;
 - (iii) one or more business terms associated with supply and demand of commodities associated with the public exchange; and
 - (iv) one or more product schedules associated with the public exchange,
- The art applied describes that the automated trusted agent is electronically coupled to the public business trading hub and is separate from the buyer entity, the seller entity, and the public business trading hub,

- but the art applied fails to describe or suggest that details of the one or more private business functions performed by the automated trusted agent remain unknown to other entities accessing the public business trading hub.

The Examiner does not point anywhere in the applied art to an automated trusted agent performing one or more of the recited business functions of the independent claims to add private relationships to a public business trading hub, and allowing confidential terms to be shielded from certain entities while allowing non-critical information or terms in the exchange of commodities to freely flow between entities via the automated public business trading hub, nor does the Examiner show how the combined art suggests this. The Examiner's example of shielding authentication information is not an example of managing one of the enumerated business functions.

Accordingly, the Examiner has not shown that all of the elements of the claimed subject matter were within or were obvious from the applied prior art, and we do not sustain the Examiner's rejection of claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78, and 80-101 under 35 U.S.C. § 103(a) as obvious over Barnes, Meltzer, Fox, and either of Haddad or Johnson.

REMARKS

If prosecution on the merits continues following this appeal, the Examiner should consider whether the teachings of Conklin regarding its use of a negotiations software engine placed on an intermediary site that manages business information of buyers and sellers while retaining privacy over that information raises issues of patentability in view of the art of record.

DECISION

To summarize, our decision is as follows:

- The rejection of claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78, and 80-101 under 35 U.S.C. § 103(a) as obvious over Barnes, Meltzer, Fox, and either of Haddad or Johnson is not sustained.

REVERSED

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